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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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Jay B. Schiller

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Attn: Charles A Mirho

FSP LLC

P.O. Box 890

Vancouver, WA 98666-0890

EXAMINER

BROWN, RUEBEN M

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

09/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 09/759,935 | Applicant(s) SCHILLER ET AL. | |
| | Examiner REUBEN M. BROWN | Art Unit 2623 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/17/2008 has been entered.

Response to Arguments

2. Applicant's arguments 3/17/2008 have been fully considered but they are not persuasive.

With respect to the previous rejection of Son, in view of Richie, applicant argues that the combination of references do not teach the claimed subject matter. Examiner respectfully disagrees. First of all, even though Son does not explicitly teach that the Logical Node ID, i.e., group ID is transmitted upstream with each VOD request, the reference does state that the group ID is transmitted upstream with messages from the terminal to the server, see col. 3, lines 51-63; col. 4, lines 57-67 thru col. 5, lines 1-14 & col. 9, lines 15-39 and col. 10, lines 31-35. Thus Son

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recognizes the benefit of the group ID, for efficiently identifying and communicating with a particular subscriber station. Nothing in Son teaches away from sending the group ID, along with the VOD request.

Furthermore, Ritchie discusses that each CIU 400 is associated with a unique predetermined serial number for identification purposes, as well as a unique network address assigned by the HIU, which is used to identify the set top terminal on the network, see col. 19, lines 51-65. Particularly, it is taught that, **“the address of the CIU is provided in the upstream channel to the HIU whenever the CIU requests service”**. Thus, Ritchie does not preclude the network address including a group identifier, as apparently argued by applicant. Therefore, the combination of Son, in view of Ritchie teaches one to include an address or ID that identifies the terminal on the network according to group or region, then according to terminal, since Son discloses that a benefit of using the Logical Node identifier is that it allows for more efficient switching of the unicast VOD stream to the correct modulator that modulates to the Logical Node for receipt by the instant subscriber station, see col. 3, lines 8-16.

Regarding the newly made rejection of Son, in view of Dodson. It is noted that the remote node number is incorporated within the VOD request by the remote node. However, the claims to which Dodson is applied merely requires that the headend receives a request that includes a group ID, without any limitations as to when/where the group ID is attached to the instant VOD request.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 22-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Son, (U.S. Pat # 6,697,376), in view of Ritchie, (U.S. Pat # 5,790,523).

Considering claim 22, the claimed VOD system, comprising:

'a headend adapted to address communications comprising an identification of a group of subscriber terminals to all terminals of the group, so that the communication of the identification of the group is not addressed to any one particular terminal of the group, and the identification may be accessed and read by all of the terminals of the group', is met by the disclosure of Son, that the Logical Node ID generator 102 generates a Logical Node ID, which is inserted into the data stream to be transmitted over the network 108 to all of the relevant subscriber stations, (Fig. 1; Fig. 2b; Fig. 3; Fig. 4; col. 7, lines 45-62; col. 8, lines 1-35; col. 9, lines 17-25; col. 9, lines 29-40). The claimed *'headend'* reads on the system 100a and/or cable headend 304 of Son, see Fig. 1; col. 3, lines 51-67 thru col. 4, lines 1-67 and Fig. 3 & col. 6, lines 32-50, respectively.

Regarding additionally claimed, *'headend further adapted to receive a request for a VOD including the group identifier and to enable one or more modulators associated with the group identifier to pass the VOD downstream'*, Son discloses that the subscriber stations include the Logical Node ID in their messages, and the headend transmits the requested VOD over the appropriate modulator 106 (col. 4, lines 57-67; col. 5, lines 45-67; col. 9, lines 25-30).

As for the additionally claimed feature, *'headend adapted to receive a request including the group ID, to extract the group ID from the request'*, emphasis added, even though Son teaches that the Logical Node ID is transmitted upstream in messages, the reference does not explicitly state transmitting the Logical Node ID as part of a request. Nevertheless Ritchie, which is in the same field of endeavor teaches that a headend (HIU) transmits a network address/ID to a terminal, CIU 400, and subsequently this network address/ID is transmitted upstream with requests for service, by the CIU 400, col. 19, lines 35-63. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Son with the feature of transmitting a terminal's network address/ID along with each request for service, for the purpose of ensuring that the source of each message to the server, as taught by Ritchie.

Considering claims 23, 27 & 35, see Son, col. 2, lines 39-67; col. 4, lines 40-56; col. 8, lines 50-67.

Considering claims 24, 28, 36 & 40, Son teaches that the Logical Node ID may be periodically transmitted to the subscriber stations, (col. 8, lines 23-28; col. 9, lines 52-57).

Considering claims 25, 29, 37 & 41, Son teaches that the Logical Node ID may be sent as an MPEG stream, col. 8, lines 20-35.

Considering claims 26, 30 & 38, the claimed elements of a VOD system that correspond with subject matter mentioned above in the rejection of claim 22 are likewise treated. As for the claimed feature of '*a video server and an application server*', the '*video server*' reads on the operation of the video server 104b, Logical Node ID generator 102b, DVM 106b (Fig. 2B; col. 5, lines 45-67 thru col. 6, lines 1-33.). The claimed '*application server*' reads on the operation of the SSCM 314 at the headend, (Fig. 1; Figs. 2A; 2B; Fig. 3; col. 4, lines 52-67; col. 6, lines 45-67; col. 9, lines 25-29).

Considering claim 31, Son teaches transmission of Logical Node ID using out-of-band process, col. 7, lines 1-32.

Considering claim 32, claimed features that correspond with subject matter mentioned above in the rejection of claim 22 are likewise treated. The claimed '*subscriber terminal*' reads on the subscriber station of Son, meets all subject matter, (col. 6, lines 31-67; col. 9, lines 1-50).

Considering claim 33, see col. 2, lines 55-67; col. 7, lines 1-30 & col. 9, lines 50-67.

Considering claim 34, the claimed VOD system, comprising elements that correspond with subject matter mentioned above in the rejection of claim 22, are likewise treated.

Considering claim 40, see Son, col. 8, lines 1-35.

5. Claims 22-31 & 34-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Son, in view of Dodson, (U.S. Pat # 6,873,622).

Considering claim 22, the claimed VOD system, comprising:

'a headend adapted to address communications comprising an identification of a group of subscriber terminals to all terminals of the group, so that the communication of the identification of the group is not addressed to any one particular terminal of the group, and the identification may be accessed and read by all of the terminals of the group', is met by the disclosure of Son, that the Logical Node ID generator 102 generates a Logical Node ID, which is inserted into the data stream to be transmitted over the network 108 to all of the relevant subscriber stations, (Fig. 1; Fig. 2b; Fig. 3; Fig. 4; col. 7, lines 45-62; col. 8, lines 1-35; col. 9, lines 17-25; col. 9, lines 29-40). The claimed *'headend'* reads on the system 100a and/or cable headend 304 of Son, see Fig. 1; col. 3, lines 51-67 thru col. 4, lines 1-67 and Fig. 3 & col. 6, lines 32-50, respectively.

Regarding additionally claimed, *'headend further adapted to receive a request for a VOD including the group identifier and to enable one or more modulators associated with the group identifier to pass the VOD downstream'*, Son discloses that the subscriber stations include the Logical Node ID in their messages, and the headend transmits the requested VOD over the appropriate modulator 106 (col. 4, lines 57-67; col. 5, lines 45-67; col. 9, lines 25-30).

As for the additionally claimed feature, *'headend adapted to receive a request including the group ID, to extract the group ID from the request'*, emphasis added, even though Son teaches that the Logical Node ID is transmitted upstream in messages, the reference does not explicitly state transmitting the Logical Node ID as part of a request. Nevertheless Dodson, which is in the same field of endeavor, teaches when a customer issues a request for a VOD program that the remote node numbers are added to the request, col. 4, lines 9-35 & Fig. 3, Step 42. The Broadband Digital Terminal, BDT 10, located within a central office receives the request that includes the remote node number(s), and uses the remote node number to at least verify the service, see col. 4, lines 8-39. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Son with the feature of receiving at a headend, network node number that is associated with a requesting terminal, along with each request for service, at least for the purpose of verifying the customer's request service with instant customer's service entitlements, as taught by Dodson.

Considering claims 23, 27 & 35, see Son, col. 2, lines 39-67; col. 4, lines 40-56; col. 8, lines 50-67.

Considering claims 24, 28, 36 & 40, Son teaches that the Logical Node ID may be periodically transmitted to the subscriber stations, (col. 8, lines 23-28; col. 9, lines 52-57).

Considering claims 25, 29, 37 & 41, Son teaches that the Logical Node ID may be sent as an MPEG stream, col. 8, lines 20-35.

Considering claims 26, 30 & 38, the claimed elements of a VOD system that correspond with subject matter mentioned above in the rejection of claim 22 are likewise treated. As for the claimed feature of '*a video server and an application server*', the '*video server*' reads on the operation of the video server 104b, Logical Node ID generator 102b, DVM 106b (Fig. 2B; col. 5, lines 45-67 thru col. 6, lines 1-33.). The claimed '*application server*' reads on the operation of the SSCM 314 at the headend, (Fig. 1; Figs. 2A; 2B; Fig. 3; col. 4, lines 52-67; col. 6, lines 45-67; col. 9, lines 25-29).

Considering claim 31, Son teaches transmission of Logical Node ID using out-of-band process, col. 7, lines 1-32.

Considering claim 34, the claimed VOD system, comprising elements that correspond with subject matter mentioned above in the rejection of claim 22, are likewise treated. As for the claimed '*software*', Son necessarily operates using a computer and programmable instructions, at least for the benefit of being able to operate the headend system in an automated fashion, see col.

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8, lines 64-67 thru col. 9, lines 1-10. Furthermore, Dodson discloses that the system is operated at least in part with the Network provisioning and Maintenance Management System and Service Providers communicating with each other & other system components using software packages 22 & 24, col. 3, lines 1-25.

Considering claim 40, see Son, col. 8, lines 1-35.

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Any response to this action should be mailed to:

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Reuben M. Brown/
Examiner, Art Unit 2623